

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL HOLMBERG,

Plaintiff,

v.

BERNARD WARNER, et al.,

Defendants.

CASE NO. C13-5069 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 36), and Plaintiff Michael Holmberg’s (“Holmberg”) objections to the R&R (Dkt. 38).

On May 30, 2013, Judge Strombom issued the R&R recommending that the Court grant Defendants’ motion to dismiss because Holmberg failed to exhaust his administrative remedies. Dkt. 36. On June 13, 2013, Holmberg filed objections arguing that Defendant Patrick Glebe’s denial of Holmberg’s request for access to his mandatory savings account (“MSAA”) was a non-grievable matter. Dkt. 38. On June 18, 2013, Defendants responded to Holmberg’s objections. Dkt. 39.

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or

1 modify the recommended disposition; receive further evidence; or return the matter to the
2 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

3 In this case, Holmberg's objections are without merit. Holmberg argues that the
4 MSAA denial is a non-grievable "classification" decision. But, as Judge Strombom
5 stated, "[t]his case has nothing to do with Mr. Holmberg's classification, transfer, or
6 community release." Dkt. 36 at 9. This case is about a MSAA denial that is grievable.
7 In fact, Holmberg has filed a grievance for a previous denial. *See Holmberg v. Gregoire*,
8 Case No. 08-5775 (W.D. Wash.). Therefore, the Court finds that Holmberg's objections
9 are baseless and concludes that his complaint should be dismissed for failure to exhaust
10 his administrative remedies.

11 The Court having considered the R&R, Holmberg's objections, and the remaining
12 record, does hereby find and order as follows:

- 13 (1) The R&R is **ADOPTED**;
- 14 (2) Defendants' motion to dismiss is **GRANTED**;
- 15 (3) This action is **DISMISSED**; and
- 16 (4) Holmberg's *in forma pauperis* status is **REVOKED** for purposes of appeal.

17 Dated this 8th day of July, 2013.

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20 BENJAMIN H. SETTLE
21 United States District Judge
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